

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION)	MDL NO. 1456
)	Civil Action No. 01-12257-PBS
)	Subcategory Case No. 03-10643
THIS DOCUMENT RELATES TO:)	
)	Judge Patti B. Saris
<i>The City of New York, et al.</i>)	
)	Magistrate Judge Bowler
<i>v.</i>)	
<i>Abbott Laboratories, et al.</i>)	

**PLAINTIFFS' CONSENTED-TO MOTION FOR LEAVE TO FILE REPLY IN
FURTHER SUPPORT OF MOTION TO COMPEL DISCOVERY FROM DEFENDANT
MERCK & CO., INC.**

Pursuant to Local Rule 7.1(B)(3), plaintiffs, the City of New York and New York Counties in MDL 1456, hereby respectfully move for leave to file a reply in further support of plaintiffs' Motion to Compel Discovery from Defendant Merck & Co., Inc. (hereinafter referred to as "Merck") by October 16, 2009. In support of this motion, plaintiffs state the following:

1. On September 4, 2009, plaintiffs filed their Motion to Compel Discovery from Defendant Merck. *See* Docket. No. 6487; Sub-docket. No. 158.
2. Pursuant to L.R. 37, defendant Merck's response was due within 14 days thereafter, September 28, 2009.
3. On September 17, 2009, defendant Merck filed an Unopposed Motion for Enlargement of Time to respond by October 5, 2009. *See* Docket. No. 6509; Sub-docket. No. 165.
4. On October 5, 2009, defendant Merck filed its Opposition to Plaintiffs' Motion to Compel Discovery from Defendant Merck. *See* Docket. No. 6572; Sub-docket. No. 178.
5. Defendant Merck has consented to Plaintiffs' Motion for Leave to File a Reply in Further

Support of Plaintiffs' Motion to Compel Discovery from Defendant Merck by October 16, 2009.

For the foregoing reasons, plaintiffs respectfully request that this motion be granted. A proposed order is attached hereto.

Dated: October 7, 2009

Respectfully submitted,

**City of New York and New York Counties in
MDL 1456 except Nassau and Orange, by**

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Certification Pursuant to Local Rule 7.1

The undersigned counsel certifies pursuant to Local Rule 7.1(a)(2) that she conferred with counsel for defendant and counsel for defendant has consented to the filing of this motion.

Dated: October 7, 2009

/s/ Joanne M. Cicala
Joanne M. Cicala

CERTIFICATE OF SERVICE

I, Kathryn Allen, hereby certify that on the 7th day of October, 2009, I caused a true and correct copy of the above Consented-To Motion for Leave to File Reply in Support of Plaintiffs' Motion to Compel Discovery from Defendant Merck & Co., Inc., to be delivered to counsel of record for defendants by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL No. 1456.

Dated: October 7, 2009

/s/ Kathryn B. Allen
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)	

**[PROPOSED] ORDER GRANTING PLAINTIFFS' CONSENTED-TO MOTION FOR
LEAVE TO FILE REPLY IN FURTHER SUPPORT OF MOTION TO COMPEL
DISCOVERY FROM DEFENDANT MERCK & CO., INC.**

IT IS HEREBY ORDERED THAT the City of New York and New York Counties shall be granted leave to file their Reply in Further Support of Plaintiffs' Motion to Compel Discovery from Defendant Merck & Co., Inc., by October 16, 2009.

Dated: October ___, 2009

Hon. Marianne B. Bowler
United States Magistrate Judge